



# Santa Clara Police Training Flash



## Caniglia vs Strom “Community Caretaking” & GVRO’s

A Supreme Court ruling held that a warrantless search to confiscate firearms for “Community Caretaking” without exigency or consent violated the 4<sup>th</sup> amendment.

A quick synopsis from the District Attorney’s Office and link to the Supreme Court ruling are below:

### **New Supreme Court Decision: Caniglia v. Strom**

[20-157 Caniglia v. Strom \(05/17/2021\) \(supremecourt.gov\)](https://www.supremecourt.gov/opinions/20-157/syll3.html)

A brand-new 4<sup>th</sup> Amendment Case came down yesterday from the U.S. Supreme Court, regarding warrantless searches. In *Caniglia v. Strom* the Supreme Court held that a warrantless search of a house after a welfare check on the suspect’s front porch was NOT justified under the “community caretaking function” or any other exception to the 4<sup>th</sup> Amendment. Further, the Court noted several important distinctions between house and vehicle searches. Finally, the Court definitively held that “The community caretaking exception asserted in the absence of exigency is not one of the carefully delineated exceptions to the residential warrant requirement.”

**Case Facts:** Petitioner Caniglia gets into argument with his wife, puts his gun on the table and says to “shoot him and get it over with”. Wife leaves can’t reach him next day, and calls cops for a welfare check. Police find Caniglia on his front porch, take him on a mental health hold. After he is taken away, officers do a warrantless search of his house for weapons and seized his firearms inside the home.

**Ruling:** Lower court says the search was justified under “community caretaking exception to the warrant requirement”. Supreme Court says nope, warrantless search of a house is not like a warrantless search of a vehicle, and any arguable “community caretaking” exception does not extend to most warrantless home searches.

### **Important Takeaway:**

Warrantless searches of homes require exigency. Absent some exigent reason for entering a home without a warrant (such as a welfare check where there is someone potentially in distress inside), extending the “community caretaking” function will rarely justify a warrantless search of the home.

The District Attorney’s Office plans to contact local agencies in the coming months concerning the ruling and GVRO’s.

# Caniglia vs Strom “Community Caretaking” & GVRO’s

## Gun Violence Restraining Orders:

**What is it** An order that allows law enforcement to take guns and ammo from persons who are danger to self/others. Requires party to relinquish weapons/ammo immediately.

**3 Types of GVRO’s**

- 1) Temporary Emergency Order is for an immediate threat and is only for law enforcement
- 2) Temporary Ex-Parte is a formal application made in Family Court by law enforcement agencies, family, or roommates
- 3) Order after Notice/Hearing is a one-year order after a full hearing

**Tips** If you have an imminent threat, you can request a GVRO over the phone, and memorialize it on the emergency order. If there’s no emergency, request the Ex-Parte order. This triggers a formal hearing and sets a court date when the judge first reviews the paperwork.

**Taking Guns** The order requires the party to relinquish guns/ammo **immediately** to law enforcement. If they refuse, you have a basis for a search warrant pursuant to PC 1524(a)(14).

**For Help** On-call search warrant DDA’s can assist with an emergency order or warrant. Forms and instructions available online at: <https://speakforsafety.org/>

	Temporary Emergency	Temporary Ex-Parte	Order After Hearing
<b>Standard for Issuance</b>	Must show reasonable cause: - The party is in immediate and present danger of causing personal injury to self or another by having guns/ammo - Order is necessary to protect injury because other means have been tried or are inappropriate under the circumstances	Must show substantial likelihood: - The party poses a significant danger, in the near future, of injury to self/others - Order is necessary to protect injury because other means have been tried or are inappropriate under the circumstances	Must show by clear and convincing evidence: - The party poses significant danger of injury to self or others - Less restrictive alternatives were ineffective or inappropriate under the circumstances
<b>Who Can Apply</b>	Law enforcement only	Law enforcement/family/co-worker/educator/roommates	Law enforcement
<b>Process</b>	- Apply orally or in writing - Contact on-duty judge - Form EPO-002 - Once issued, serve & take guns immediately	- Apply in writing in Family Court - Forms GV-100, CLETS-001, & GV-109	- The hearing is set either by filing Ex-Parte or by operation of law after a temporary emergency order is issued
<b>Duration</b>	21 days (triggers 1-year hearing, but otherwise expires)	21 days (pending hearing on 1+ year order)	1 to 5 years
<b>Legal Authority</b>	PC 18125	PC 18150	PC 18170

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Page 1 of 1